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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,509	07/18/2003	Yaron Mayer		1168

7590 01/25/2006
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EXAMINER

COBY, FRANTZ

ART UNIT PAPER NUMBER

2161

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,509

Applicant(s)

MAYER, YARON

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-11, 17, 18, 21, 22 and 46-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-11, 17, 18, 21, 22 and 46-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is in response to application filed on July 18, 2003 and Amended Claims filed on February 18 2004 in which claims 7, 11, 17, 18, 22 and 55 were amended; claims 4-6, 12-16, 19-20, 23-45 were canceled; and claims 1-3, 7-11, 17-18, 21-22 and 46-55 were presented for examination.

Status of Claims

Claims 1-3, 7-11, 17-18, 21-22 and 46-55 are pending. Claims 4-6, 12-16, 19-20, 23-45 are canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 7-11, 17-18, 21-22 and 46-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the user's computer" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the user" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "if they are currently online" in line 9. Pronouns are not permitted in the claims. Only what is being referred by "they" should be set forth in the claim.

Claim 2 recites the limitation "said system" in line 1; "the system" in line 2; and "the client programs" in line 3. There are insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the limitation "the user's computer" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitations "they are online" in lines 5 and 7; "add them" in line 13; and "his contactee list" in lines 13-14. Pronouns are not permitted in the claims. Only what is being referred by "they", "them" and "his" should be set forth in the claim.

Claim 7 recites the limitation "the user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "if they are currently online"; "it belongs"; "his/her" throughout the claim. Pronouns are not permitted in the claims. Only what is being referred by "they", "it" and "his/her" should be set forth in the claim.

Claim 8 recites the limitation "the user" in lines 6 and 7; "the contactee" in line 2, "the person" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Claim 9 recites the limitation "the contactee list" in line 1; "the elements" in line 2; "the sorting order". There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "these elements" in line 3. Pronouns are not permitted in the claims. Only what is being referred by "these" should be set forth in the claim.

Claim 10 recites the limitation "the user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "these", "his/her"; "himself/herself"; "them" "that" "it" "he/she" "their" throughout the claim. Pronouns are not permitted in the claims. Only what is being referred by "them", "it", "that", himself/herself, their, these and "his/her" should be set forth in the claim.

Claim 10 recites the limitation "the user" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 is replete with pronouns such as "he/she", "that", "them", "his/her".

Pronouns are not permitted in the claims; only what is being referred by the aforementioned pronouns should be set forth in the claim. Also, claim 11 recites the limitation "the user" throughout the claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 3,7, 10, 11,18, 46, 48, 49, 52 and 54, consist of more than one sentence. Appropriate correction is required.

Claim 17 recites the limitation "himself/herself"; and "he/she" in line 5. Pronouns are not permitted in the claims; only what is being referred by "himself/herself", and "he/she" should be set forth in the claim.

Claim 18 recites the limitation "his/her" in line 10. Pronouns are not permitted in the claims. Only what is being referred by "his/her" should be set forth in the claim.

Claim 21 recites the limitation "his/her" in line 3. Pronouns are not permitted in the claims. Only what is being referred by "his/her" should be set forth in the claim.

Claim 46 recites the limitation "the user" in lines 1, 6-7, 9; "the communication software" in line 5; "the receiving clients" in line 18 and "the IM server" in lines 9, 11, 13 and 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "if they try to reach" in lines 11-12. Pronouns are not permitted in the claims. Only what is being referred by "they" should be set forth in the claim.

Claim 47 recites the limitation "the scores" in lines 3 and 6-7. There is insufficient antecedent basis for this limitation in the claim.

Claim 48 recites the limitation "the user" in lines 1, and 4; "the missing values" in line 2; "the average" in line 3; "the correlations" in line 5; and "the uncertainty" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 49 recites the limitation "the marked self image"; "the date", "the user's" in line 2; "the preferred images"; "the actual image"; "the images"; "the other person"; "the relevant parameters"; "the date submitted"; "the analysis"; "the actual photo" throughout the claim. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 49 recites the limitation "himself/herself in line 9. Pronouns are not permitted in the claims. Only what is being referred by "himself/herself" should be set forth in the claim.

Claim 50 recites the limitation "he/she" in line 2; "he" in line 3; "him" in line 4 . Pronouns are not permitted in the claims. Only what is being referred by "he/she" should be set forth in the claim.

Claim 50 recites the limitation "the user" in line 1, "the criteria" and "the automatic matching" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim 51 recites the limitation "the photos"; "the actual compatibility" in lines 1 and 4 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 51 recites the limitation "it" and "these" throughout the claim. Pronouns are not permitted in the claims. Only what is being referred by "he/she" should be set forth in the claim.

Claim 52 recites the limitation "the user" in lines 3, 4 and 6 "the systematic photos" in line 4 and "the estimate" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 52 recites the limitation "he" in line 8. Pronouns are not permitted in the claims. Only what is being referred by "he/she" should be set forth in the claim.

Claim 53 recites the limitation "the availability" in line 2; "the list of compatible dates" in line 3 and "the list"; "the window" in line 4; and "the automatic updating" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim 54 recites the limitation "it" throughout the claim. Pronouns are not permitted in the claims. Only what is being referred by "it" should be set forth in the claim.

Claim 54 recites the limitation "the online status of dates" in line 2; "the refresh command" in line 5 and "the browser" in lines 3, 6, and 10-11. There is insufficient antecedent basis for this limitation in the claim.

Claim 55 recites the limitation "the notification"; "the new date" in line 2; "the system" in lines 3 and 5 and "the criteria" in line 6 and "the message" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 55 recites the limitation "they" in line 4. Pronouns are not permitted in the claims. Only what is being referred by "they" should be set forth in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

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obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 7-11, 17-18, 21-22 and 46-55 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-101 are of copending Application No. 10/328,088. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: A system for searching, finding and contacting dates on the Internet in instant messaging networks.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272 4017. The examiner can normally be reached on Monday-Saturday 3:00PM-10:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


FRANTZ COBY
PRIMARY EXAMINER

January 19, 2006